

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.)	
State Engineer,)	
)	No. 69cv07941-BB
Plaintiffs)	
)	
v.)	
)	
ROMAN ARAGON, et al.,)	Rio Chama Adjudication
)	
Defendants)	Pueblo Claims Subproceeding 1

**LA ASOCIACION DE LAS ACEQUIAS
DEL RIO VALLECITOS, TUSAS Y OJO CALIENTE'S ANSWER
TO SUBPROCEEDING COMPLAINT OF OHKAY OWINGEH**

PURSUANT TO THE *Scheduling Order on Pueblo Claims* [Docket No. 7639] entered on November 3, 2004, La Asociacion de las Acequias del Rio Vallecitos, Tusas y Ojo Caliente, ("La Asociacion"), comprised of thirty-four community acequias in Section 2 of the Rio Chama, through undersigned counsel, hereby answers the *Subproceeding Complaint of Ohkay Owingeh* [Docket No. 8634].

1. La Asociacion admits that Ohkay Owingeh is a federally recognized Indian tribe owing lands with the geographic scope of this adjudication. However, Defendant is without sufficient information or knowledge either to admit or deny that Ohkay Owingeh has aboriginal use rights.

2. La Asociacion denies the allegations contained in Paragraph 2 of the Complaint.

3. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 3, and therefore denies the same.

4. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 4, and therefore denies the same.

5. La Asociacion denies the allegations contained in Paragraph 5.

6. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 6, and therefore denies the same.

7. La Asociacion without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 7, and therefore denies the same.

8. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 8 and therefore denies the same.

9. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 9 and therefore denies the same.

10. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 10 and therefore denies the same.

11. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 11 and therefore denies the same.

11. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 10 and therefore denies the same.

13. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 13 and therefore denies the same.

14. La Asociacion denies the allegations contained in Paragraph 14.

15. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 15 and therefore denies the same.

16. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 16 and therefore denies the same.

17. La Asociacion denies the allegations contained in Paragraph 17.

18. La Asociacion denies the allegations contained in Paragraph 18.

19. La Asociacion is without sufficient information or knowledge either to admit or deny the allegations contained in Paragraph 19 and therefore denies the same.

First Affirmative Defense

The claims of the Ohkay Owingeh contained within its Subproceeding Complaint are barred by the Treaty of Guadalupe Hidalgo.

Second Affirmative Defense

The claims of Ohkay Owingeh contained within its Subproceeding Complaint are barred by the laws and customs of the prior sovereigns of Spain and Mexico.

Third Affirmative Defense

The claims of Ohkay Owingeh contained within its Subproceeding Complaint are barred by abandonment.

Fourth Affirmative Defense

The claims of Ohkay Owingeh contained within its Subproceeding Complaint are subject to the requirement of application of water to beneficial use.

Fifth Affirmative Defense

The claims of Ohkay Owingeh contained within its Subproceeding Complaint are barred by the doctrine of laches.

Sixth Affirmative Defense

The claims of the Ohkay Owingeh contained within its Subproceeding Complaint are barred to the extent that recognition of such claims would result in a violation of the Equal Protection Clause of the United States Constitution.

WHEREFORE, La Asociacion de las Acequias del Rio Vallecitos, Tusas y Ojo Caliente respectfully asks this Court to require Ohkay Owingeh to approve all elements of the water rights that it claims and to adjudicate the water rights of Ohkay Owingeh in accord with the laws, customs and judicial decisions of Spain, Mexico, the United States of America, and the Territory and State of New Mexico.

Respectfully submitted,

/s/ Mary E. Humphrey

MARY E. HUMPHREY

Attorney for La Asociacion de las Acequias
del Rio Vallecitos, Tusas y Ojo Caliente

P. O. Box 1574

El Prado, New Mexico 87529

(505) 758-2203

CERTIFICATE OF SERVICE

I certify that on the 1st day of June day, 2007 that I filed the foregoing document electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic filed, to be served via electronic mail.

I also certify that I served the following persons via electronic mail:

Tim Vollman at Tim_Vollman@hotmail.com

Lee Bergen at Lbergen@nativeamericanlawyers.com

I further certify that I served the foregoing document on the following persons by U. S. mail:

Fred Vigil
P. O. Box 687
Medanales, NM 87548-0687

Randy E. Lovato
8100 Rancho Sueno Ct. NW
Albuquerque, NM 87120

Daniel Cleavinger
P. O. Box 339
Tierra Amarilla, NM 87576

Paula Garcia
607 Cerrillos Rd., Suite F
Santa Fe, NM 87505-3799

/s/ Mary E. Humphrey